

Message Text

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ACTION L-03

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FM AMEMBASSY SAN JOSE

TO SECSTATE WASHDC IMMEDIATE 6483

C O N F I D E N T I A L SAN JOSE 1002

E.O. 11652: GDS

TAGS: PFOR, PGOV, CS

SUBJECT: EXTRADITION BILL FAVORING ROBERT VESCO

INTRODUCED IN LEGISLATIVE ASSEMBLY

1. BEGIN SUMMARY: IN A QUICK UNEXPECTED MOVE MARCH 12, THE GOVERNMENT MANAGED TO GET PLENARY ACTION (FIRST DEBATE) ON LEGISLATION MODIFYING EXISTING EXTRADITION LAW. ALTHOUGH THE EMBASSY HAS NOT YET HAD LEGAL ADVICE ON THIS PROPOSED LEGISLATION, WE READ IT AS PROTECTIVE OF ROBERT VESCO AGAINST FUTURE EXTRADITION PROCEEDINGS. THE GOVERNMENT IS OBVIOUSLY ANXIOUS TO PASS THE BILL QUICKLY AND PROBABLY WHILE MANY KEY POLITICAL LEADERS ARE ABSENT FROM THE COUNTRY. END SUMMARY.

2. DURING YESTERDAY'S (MARCH 12) LEGISLATIVE ASSEMBLY SESSION, AN EXECUTIVE BRANCH SPONSORED BILL MODIFYING CURRENT COSTA RICAN EXTRADITION PROCEDURES WAS APPROVED IN FIRST DEBATE BY A VOTE OF 31-15. REQUIRED SECOND AND THIRD DEBATES FOLLOW TODAY AND TOMORROW (MARCH 14), AND IN ALL LIKELIHOOD THE BILL WILL PASS. BOTH STUDY OF THE BILL IN COMMISSION AND AN OPTIONAL OPINION OF THE SUPREME COURT WERE DISALLOWED WHEN A MAJORITY OF THE DEPUTIES SUPPORTED A PLN MOTION TO DISPENSE WITH NORMAL PROCEDURES. (DISPENSA DE TRAMITES).

3. ALTHOUGH THE EMBASSY HAS NOT YET HAD THE BENEFIT OF LEGAL OPINION ON THE PROPOSED LEGISLATION, SOME POINTS THAT STAND OUT SUGGEST THAT THE BILL MAY HAVE BEEN CONSTRUCTED TO

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PROVIDE SOME PROTECTION TO ROBERT VESCO FROM FURTHER ATTEMPTS

TO EXTRADITE HIM. WHEN PASSED THE BILL WILL REPLACE
LAW #4795 OF JULY 16, 1971, OF WHICH THE DEPARTMENT HAS
COPIES AND WHICH IMPORTANTLY FIGURED IN THE USG EARLIER
ATTEMPT TO EXTRADITE VESCO. THE TEXT OF THE BILL IS BEING
FORWARDED TODAY BY POUCH. SOME HIGHLIGHTS WHICH STRIKE THE
EMBASSY AS REVEALING THE INTENT OF THE BILL ARE AS FOLLOW:
(FREE TRANSLATION AND UNDERLINING OURS)

A. ARTICLE 2. "EXTRADITION WILL NOT BE OFFERED NOR
CONCEDED IN THE FOLLOWING INSTANCES:

(1) CLAUSE 1: WHEN THE SUBJECT IS A COSTA RICAN
CITIZEN OR SUBJECT TO RIGHTS RESERVED FOR NATIONALS UNDER
THE CONSTITUTION OR SPECIAL LAWS:

(2) CLAUSE 5: WHEN THE CRIME IN WHICH THE
EXTRADITION IS BASED ACCORDING TO THE REQUESTING STATE IS
NOT PUNISHABLE UNDER COSTA RICAN LAW.

(3) CLAUSE 6: WHEN THE DEED (CRIME) HAS NOT BEEN
EXECUTED IN THE TERRITORY OF THE REQUESTING STATE OR WHEN
THE REQUESTED INDIVIDUAL IS NOT LOCATED IN THAT STATE'S
TERRITORY WHEN THE DEED WAS COMMITTED.

(4) CLAUSE 7: WHEN EITHER UNDER COSTA RICAN
LEGISLATION OR OF THE REQUESTING STATE, THE PENALTY DOES NOT
DEPRIVE LIBERTY OR IF THE SENTENCE IS LESS THAN ONE YEAR OR,
REGARDLESS OF ITS DURATION, IF A FIND IS POSSIBLY CONTEMPLATED.
IF A FIRM JUDGMENT EXISTS (AGAINST AN INDIVIDUAL),
EXTRADITION WILL BE GRANTED ONLY IF THE PENALTY ASSESSED IS
A MINIMUM OF ONE YEAR.

(5) CLAUSE 8: WHEN THE CRIME IS POLITICAL, OR EVEN
IF COMMON, IF IT HAS IMPLICIT POLITICAL MOTIVATION (CONEXO CON
EL POLITICO ATENDIENDO SUS PROPOSITOS). NEITHER WILL
(EXTRADITION BE A RECOURSE) WHEN THE PERSON HAS BEEN PROCESSED
OR CONDEMNED FOR A POLITICAL CRIME OR JUDGED WITH PARTIALITY.

(6) WHEN THE INDIVIDUAL SOUGHT FOR A COMMON CRIME
IS IN PUBLIC AND NOTORIOUS FORM THE VICTIM OF
PERSECUTION FOR POLITICAL MOTIVES OF POLITICAL CHARACTER
BY AUTHORITIES OF THE REQUESTING STATE. POLITICAL PERSECUTION
INCLUDES THAT WHICH IS MOTIVATED BY RACE, SEX,
LANGUAGE, POLITICAL OPINIONS, ECONOMIC POSITION, ETC.

(7) WHEN PURELY MILITARY OR TAX CRIMES ARE
CONTEMPLATED.

B. ARTICLE 4. WHEN A STATE REQUESTS THE EXTRADITION OF
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AN INDIVIDUAL WHO HAS BEEN SUBJECT TO AN EARLIER EXTRADITION
REQUEST, THE FOLLOWING NORMS WILL BE OBSERVED:

(1) THE REQUESTING STATE WILL NOT BE ABLE TO INVOKE
DEEDS OR CRIMES CONTEMPLATED IN THE EARLIER REQUEST FOR
EXTRADITION, NOR DEEDS CONNECTED OR RELATED WITH THEM.

(2) DEEDS OR CRIMES IMPUTED TO THE INDIVIDUAL WILL
BE INADMISSIBLE WHEN THEY WERE COMMITTED PRIOR TO THE
EARLIER REQUEST FOR EXTRADITION BY THE REQUESTING STATE.

ANY REQUEST FOR EXTRADITION IN CONTRAVENTION OF THAT
ESTABLISHED IN THIS ARTICLE WILL BE FLATLY REFUSED
(RECHAZADA DE PLANO).

4. COMMENT: THE BILL CONSISTS OF 14 LENGTHY ARTICLES,
MANY CONCERNING PROCEDURES. THE EMBASSY WILL CONSULT
WITH FRANCISCO CASTILLO, WHO WORKED WITH US ON
PREVIOUS EXTRADITION ATTEMPT, AS SOON AS POSSIBLE
TO GET A BETTER READING ON LEGAL IMPLICATIONS OF THIS BILL.
IN THE MEANTIME, HOWEVER, OPPOSITION DEPUTIES HAVE
CHARACTERIZED IT AS PROVIDING PROTECTION TO VESCO IN THE
EVENT OF FUTURE EXTRADITION ATTEMPTS. THE GOVERNMENT'S
SUDDEN URGENCY TO PASS THE BILL WITHOUT NORMAL COMMITTEE
STUDY AND APPARENTLY WITHOUT EVEN INTRODUCING THE TEXT,
ONLY THE NUMERICAL DESIGNATOR OF THE BILL AND ITS TITLE,
ALSO SUGGEST IT WANTS AS LITTLE FAMILIARITY WITH THE LANGUAGE
AS POSSIBLE. DEPUTIES REPORTEDLY COMPLAINED THAT THE
BILL WAS INTRODUCED AS THE FIRST ITEM OF ASSEMBLY BUSINESS
WHEN IT WOULD ATTRACT THE LEAST ATTENTION. ALSO SUGGESTIVE
OF THE GOVERNMENT'S DESIRE TO MOVE THIS LEGISLATION IN
THE LOWEST KEY MANNER POSSIBLE WAS THE PRESENTATION OF
THE CONTROVERSIAL BILL AT THE MOMENT WHEN FOREIGN RELATIONS
MINISTER FACIO, ASSEMBLY LEADER LUIS ALBERTO MONGE, AND
PLN VESCO-ANTAGONIST JENARO VALVERDE MARIN ARE TRAVELING
IN VENEZUELA; PRESIDENT-ELECT ODUBER LEAVES MARCH 14 FOR
PUERTO RICO; AND FIGUERES HIMSELF WILL BE IN HONDURAS ON
MARCH 14. NO ONE APPARENTLY WANTS TO BE AROUND TO TAKE
THE INEVITABLE HEAT.
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